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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,860	10/02/2003	Bernd Greifeneder	06896/100M098-US1	2441

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,860

Applicant(s)

GREIFENEDER ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

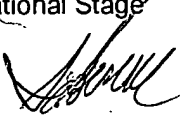
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/23/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the MIS probing" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shay et al. (U.S. Pub. 2003/0225549 A1) in view of Werme et al. (U.S. Pub. No. 2003/0167270 A1).

As to claim 1, Shay et al. discloses a computer program for managing and monitoring one or more computer systems, said computer program comprising:

a data source detection module for identifying data sources in said one or more computer systems (See Shay et al. page 7, paragraphs 0060-0063); and

a configuration utilized by said data source detection module for acquiring instructions for querying at least one of said computer systems (See Shay et al. page 6, paragraphs 0054-0056),

wherein said data source detection module scans said one or more computer systems and outputs a list of available data sources in said scanned computer systems (See Shay et al. pages 2-3, paragraph 0021, also see Shay et al. page 4, paragraph 0037).

Shay et al. does not teach said configuration specifying possible combinations of said data sources in said one or more computer systems;

said list comprising a subset of said possible combinations of said data sources specified by said configuration.

Werme et al. teaches said configuration specifying possible combinations of said data sources in said one or more computer systems (See Werme et al. page 6, paragraphs 0087-0089);

said list comprising a subset of said possible combinations of said data sources specified by said configuration (See Werme et al. page 18, paragraphs 0310-0321, also see Werme et al. page 4, paragraphs 0049-0058).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. to include said configuration specifying possible combinations of said data sources in said one or more computer systems; said list comprising a subset of said possible combinations of said data sources specified by said configuration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. by the teaching of Werme et al. to include said

configuration specifying possible combinations of said data sources in said one or more computer systems; said list comprising a subset of said possible combinations of said data sources specified by said configuration because it provides for flexibility and user customization in network monitoring.

As to claim 2, Shay et al. as modified discloses further comprising:

a monitoring information source in said one or more computer systems (See Shay et al. page 7, paragraphs 0060-0063); and

a metric related to said monitoring information source, said metric being detected by the data source detection module for outputting said list of said actually available data sources (See Shay et al. page 7, paragraphs 0060-0063).

As to claim 3, Shay et al. as modified discloses further comprising:

a monitoring information service for providing monitoring information of one of said computer systems (See Shay et al. pages 2-3, paragraph 0021); and

a probe engine for probing said service (See Shay et al. page 3, paragraph 0024).

As to claim 4, Shay et al. as modified discloses further comprising data collection tools for collecting performance information from said data sources, said data collection tools allowing said user to choose said data sources for monitoring (See Werme et al. page 14, paragraph 0218, also see Shay et al. page 3, paragraph 0023).

As to claim 5, Shay et al. as modified discloses comprising a graphical user interface for enabling a user to interact with said data source detection module and said data collection tools (See Shay et al. page 3, paragraphs 0023-0024).

As to claim 6, Shay et al. discloses a method for automatic detection of monitoring data sources of at least one computer system, said method comprising the steps of:

identifying data sources of at least one of said at least one computer system (See Shay et al. page 2, paragraphs 0019-0021);

collecting meta and performance information of said data source of at least one of said at least one computer system (See Shay et al. page 7, paragraphs 0060-0062, also see Shay et al. pages 6-7, paragraph 0057, wherein “meta” reads on “attribute”);

embedding an expert's knowledge into a generic configuration in software used in said step of collecting meta and performance information (See Shay et al. pages 6-7, paragraph 0057, wherein “meta” reads on “attribute”, also see Shay et al. page 3, paragraphs 0027-0030).

Shay et al. does not teach presenting said meta and performance information to a user; and presenting a list of said identified data sources to said user.

Werme et al. teaches presenting said meta and performance information to a user (See Werme et al. page 14, paragraph 0218, also see Werme et al. page 16, paragraphs 0261-0268); and presenting a list of said identified data sources to said user (See Werme et al. page 15, paragraphs 0229-0242, also see Werme et al. page 14, paragraphs 0214, also see Werme et al. page 5, paragraph 0060).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. to include presenting said meta and performance information to a user; and presenting a list of said identified data sources to said user.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. by the teaching of Werme et al. to include presenting said meta and performance information to a user; and presenting a list of said identified data sources to said user because it provides for flexibility and user customization in network monitoring and easier means of finding and fixing error.

As to claim 7, Shay et al. as modified discloses comprising the step of:
receiving access information from said user, wherein said access information comprises one member of the group consisting of a username and a password (See Shay et al. page 2, paragraph 0019, also see Werme et al. page 14, paragraph 0221).

As to claim 8, Shay et al. as modified discloses comprising the steps of:
receiving a list of data sources chosen by said user (See Shay et al. page 3, paragraphs 0022-0025, also see Werme et al. page 18, paragraphs 0310-0321, also see Werme et al. page 4, paragraphs 0049-0058);

extracting said meta and performance data from said chosen data sources (See Shay et al. page 5, paragraphs 0044-0045); and

presenting said meta and performance data to said user (See Shay et al. pages 5-6, paragraphs 0049-0051).

As to claim 9, Shay et al. as modified discloses comprising the step of:
utilizing a probe engine to verify whether a service of one of said at least one computer system is responding and if said service responds, said service determines said meta and performance data of an environment in which said service is running (See Shay et al. page 6, paragraphs 0054-0055, also see Werme et al. page 29, paragraphs 0451-0454).

As to claim 10, Shay et al. as modified discloses wherein the service probing step is performed for each service of said at least one computer system (See Shay et al. page 5, paragraphs 0042-0044, also see Shay et al. page 5, paragraph 0047).

As to claim 11, Shay et al. as modified discloses comprising the step of:
utilizing said probe engine to identify a monitoring information source in said at least one computer system and stores said monitoring information source in a list of detected monitoring information sources (See Shay et al. page 6, paragraphs 0049-0050, also see Werme et al. page 18, paragraphs 0310-0321, also see Werme et al. page 4, paragraphs 0049-0058).

As to claim 12, Shay et al. as modified discloses wherein the MIS probing step is performed for each monitoring information source of said at least one computer system (See Shay et al. page 6, paragraphs 0049-0055, also see Werme et al. page 18, paragraphs 0310-0321,

also see Werme et al. page 4, paragraphs 0049-0058).

As to claim 13, Shay et al. as modified discloses comprising the step of:
utilizing said probe engine to determine a metric associated with each of said monitoring information sources (See Shay et al. pages 5-6, paragraphs 0049-0051, also see Shay et al. page 5, paragraph 0044).

As to claim 14, Shay et al. as modified discloses wherein said meta information comprises set-up information of said at least one computer system (See Werme et al. page 6, paragraphs 0087-0089, also see Werme et al. page 18, paragraphs 0310-0321, also see Werme et al. page 4, paragraphs 0049-0058).

As to claim 15, Shay et al. discloses a method for automatic detection of monitoring data sources of at least one computer system in a network environment, said method comprising the steps of:

identifying data sources of at least one of said at least one computer system (See Shay et al. page 2, paragraphs 0017-0018);

collecting meta and performance information of said data source of at least one of said at least one computer system (See Shay et al. page 2, paragraphs 0017-0018);

receiving a list of data sources chosen by said user (See Shay et al. pages 5-6, paragraphs 0049-0051);

extracting said meta and performance data from said chosen data sources (See Shay et al. page 5, paragraphs 0044-0045).

Shay et al. does not teach presenting said meta and performance information to a user; and presenting a list of said data sources to said user.

Werme et al. teaches presenting said meta and performance information to a user (See Werme et al. page 14, paragraph 0218, also see Werme et al. page 16, paragraphs 0261-0268); and presenting a list of said data sources to said user (See Werme et al. page 15, paragraphs 0229-0242, also see Werme et al. page 14, paragraphs 0214, also see Werme et al. page 5, paragraph 0060).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. to include presenting said meta and performance information to a user; and presenting a list of said data sources to said user.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Shay et al. by the teaching of Werme et al. to include presenting said meta and performance information to a user; and presenting a list of said data sources to said user because it provides for flexibility and user customization in network monitoring and easier means of finding and fixing error.

As to claim 16, Shay et al. as modified discloses wherein said list receiving step comprises the step of receiving a range to be examined of said network environment, said range being specified by said user (See Shay et al. page 3, paragraph 0025, wherein “range” reads on “domain”, also see Shay et al. page 6, paragraphs 0051-0053).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thorpe et al. (U.S. Pub. 2003/0200294 A1) teaches network service metrics collection with attribute lists.

Combar et al. (U.S. Patent No. 6,515,968 B1) teaches using a GUI to monitor network performance.

Taylor (U.S. Patent No. 6,798,417 B1) teaches resource manager of a networked computer system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Neveen Abel-Jalil
January 4, 2005


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PRIMARY EXAMINER